

**HOUSE . . . . . No.**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***Christine P. Barber and Brandy Fluker-Reid***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to justice for survivors.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Christine P. Barber</i>	<i>34th Middlesex</i>	<i>1/17/2025</i>
<i>Brandy Fluker-Reid</i>	<i>12th Suffolk</i>	<i>1/17/2025</i>

**HOUSE . . . . . No.**

[Pin Slip]

**The Commonwealth of Massachusetts**

**In the One Hundred and Ninety-Fourth General Court  
(2025-2026)**

An Act relative to justice for survivors.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 263 of the General Laws is hereby amended by inserting after  
2 Section 9 the following section:

3 Section 10. Massachusetts Survivors Act

4 a) Definitions.

5 For the purpose of this section, the following words shall have the following meanings:-

6 i. “Survivor”, an adult or child who has experienced any of the following, as defined  
7 below: abuse, sexual assault, or human trafficking.

8 ii. “Abuse”, includes abuse as defined in either Mass. General Laws c.209A § 1 or Mass.  
9 General Laws c.258e § 1. The controlling statutory definitions shall be those as written at the  
10 time the survivor’s motion is filed.

11 iii. “Sexual Assault”, causing another to engage involuntarily in sexual relations by force,  
12 threat or duress

13           iv. “Human Trafficking”, conduct prohibited under sections 50 and 51 of chapter 265 of  
14 the General Laws or defined under 22 U.S.C. 7102. The controlling statutory definitions shall be  
15 those as written at the time the survivor’s motion is filed.

16           v. “Documentary evidence”, any evidence corroborating that the defendant is a survivor  
17 of abuse. Documentary evidence may include, but is not limited to a court record; a presentence  
18 report; a social services record; a hospital record; a sworn statement corroborating the abuse,  
19 sexual assault, or human trafficking from someone who is not the defendant; a law enforcement  
20 record; a domestic incident report; a protective order; a sworn statement by the defendant; local  
21 jail records or records of the Department of Correction; documentation—including written  
22 documents, photographs, text messages, emails, videos, and audio recordings—tending to  
23 support the claims of the defendant; verification of consultation with a licensed medical care  
24 provider or mental health care provider, employee of a court acting within the scope of his or her  
25 employment, member of the clergy, attorney, social worker, rape crisis counselor, or other  
26 advocate acting on behalf of an agency that assists survivors.

27           vi. “Prima facie showing”, a defendant produces facts that establish that there is a  
28 substantial likelihood that they are a survivor who is eligible for relief under this Act. For  
29 purposes of this section, a

30           vii. “Defendant”, any adult or child charged with a crime. A child shall be considered a  
31 defendant for the purposes of this Act regardless of whether they were adjudicated as a  
32 “delinquent child” or “youthful offender” as defined under sections 52 through 84 of chapter 119  
33 of the General Laws

34           viii. “substantial likelihood”, requires more than a mere possibility, but less than a  
35 standard of more likely than not.

36           b) Any adult or child charged with a crime may file a motion alleging that they are  
37 subject to relief pursuant to the Massachusetts Survivors Act because (1) they are a survivor of  
38 abuse, sexual assault, or human trafficking and (2) their alleged offenses were related to their  
39 experiences of abuse, sexual assault, or human trafficking.

40           c) A motion requesting relief pursuant to this Act may be filed at any time after an adult  
41 or child has been charged or adjudicated as delinquent. The motion may seek pretrial diversion, a  
42 reduced sentence, or postconviction relief. In their motion or at a hearing, the defendant may  
43 present evidence including:

44           i. documentary evidence corroborating that the defendant is a survivor of abuse, sexual  
45 assault, or human trafficking.

46           ii. expert testimony from a psychiatrist, psychologist, or mental health professional;

47           iii. testimony from the petitioner;

48           iv. testimony from other witnesses;

49           v. any other relevant evidence.

50           d) A person’s eligibility for relief under this Act does not require a prior legal  
51 determination that they experienced abuse, sexual assault, or human trafficking.

52 e) The court shall issue a written order including findings of fact and reasons for its  
53 determination regarding the accused's eligibility for relief under this Act and the sentence  
54 imposed.

55 f) An appeal may be taken as of right regarding any determination of eligibility or  
56 sentence imposed pursuant to this Act. Counsel shall be appointed upon request for those who  
57 seek to appeal.

58 g) At any point, the parties may stipulate to the terms of requested relief under this Act.

59 h) The court shall determine the defendant's eligibility for relief pursuant to this Act  
60 regardless of whether the defendant raised an affirmative defense at any point in the proceedings  
61 against them.

62 i) No evidence, testimony, or records presented during proceedings under this Act shall  
63 be admissible in any future civil, criminal, or administrative proceeding, except in cases of  
64 perjury, false statements, or fraud committed during such proceedings.

65 j) Participation in proceedings under this Act shall not be construed as a waiver of  
66 constitutional rights and privileges, including the Fifth Amendment right against self-  
67 incrimination.

68 k) The Office of the Attorney General shall collect information regarding each motion  
69 filed pursuant to this Act. The Office of the Attorney General shall annually, not later than  
70 December 31, report to the joint committee on the judiciary. The report must include the  
71 following information:

72 (1) the number of motions filed;

- 73 (2) the number of motions granted;
- 74 (3) the sentence requested by the prosecuting agency at sentencing, where applicable;
- 75 (4) the sentence or diversion order imposed;
- 76 (5) the county in which the petitioner was prosecuted;
- 77 (6) the race and ethnicity of the defendant;
- 78 (7) the gender and gender identity of the defendant;

79 SECTION 2. Chapter 263 of the General Laws is hereby amended by inserting after  
80 Section 10, the following section

81 Section 10A: Diversion Pursuant to the Massachusetts Survivors Justice Act

82 a) A defendant may bring a motion seeking pretrial diversion under this Act wherein  
83 criminal or delinquency proceedings are suspended without a plea of guilty for a period of not  
84 less than 3 months and not more than 24 months. The motion shall include 1) a statement that the  
85 defendant is a survivor as defined in Section 2 of this Act and 2) the defendant's plan for the  
86 diversion period, which may include programs, services, restorative justice activities,  
87 employment, and/or community service. If such a motion has been filed, the court shall not  
88 proceed with pre-trial hearings until it issues a decision on the motion. Where the defendant  
89 requests a hearing and has made a prima facie showing that they meet the requirements of this  
90 Act, the court shall order a hearing.

91 b) Within 60 days of receiving a motion pursuant to this Act or holding a hearing on such  
92 a motion, the court shall make written findings as to 1) whether the defendant has established by

93 a preponderance of the evidence that they are a Survivor as defined in Section 2 above and that  
94 their alleged criminal offense was related to their experiences as a Survivor such that they are  
95 eligible for relief pursuant to this Act and 2) whether the conditions of diversion are feasible and  
96 will contribute to the well-being of the defendant and their community.

97 c) No consent by the defendant to the stay of proceedings or any act done or statement  
98 made in fulfillment of the terms and conditions of such stay of proceedings shall be admissible as  
99 an admission, implied or otherwise, against the defendant, should the stay of proceedings be  
100 terminated and criminal or delinquency proceedings resumed on the original charge or charges;

101 d) If the defendant has performed satisfactorily in diversion, at the end of the period of  
102 diversion, the court shall enter a dismissal of the underlying case. A court may conclude that the  
103 defendant has performed satisfactorily if the defendant has substantially complied with the  
104 conditions of diversion and not willfully violated any other conditions set by the court. If the  
105 defendant does not perform satisfactorily in diversion, the court may extend the period of  
106 diversion and modify the conditions; or the court may reinstate criminal or delinquency  
107 proceedings.

108 e) Motions filed under this Section are subject to the provisions set forth in Section 1 of  
109 this Act.

110 SECTION 3. Chapter 263 of the General Laws is hereby amended by inserting after  
111 Section 10A, the following section

112 Section 10B: Sentencing Relief Pursuant to the Massachusetts Survivors Act

113 a) During a hearing to impose a sentence or accept a plea of guilty, the court shall  
114 consider a motion for relief pursuant to Section 2 of this Act. If the court finds by a  
115 preponderance of the evidence that the defendant is a survivor of abuse, sexual assault, or human  
116 trafficking and that their criminal offense or delinquent behavior was related to their experience  
117 as a survivor, the court shall depart from the applicable sentence to the ranges provided as  
118 follows, or as provided in subsection B of this Section.

119 i. Sentences of life without the possibility of parole shall be reduced to 10 years or less;

120 ii. Sentences of life with the possibility of parole shall be reduced to 7 years or less;

121 iii. Sentences of 25 years or more shall be reduced to 5 years or less;

122 iv. Sentences between 20 and 25 years shall be reduced to 4 years or less;

123 v. Sentences between 15 and 20 years shall be reduced to 3 years or less;

124 vi. Sentences between 8 and 15 years shall be reduced to 2 years or less; and

125 vii. Sentences between 2.5 and 8 years shall be reduced by 1 year;

126 viii. Sentences of 2.5 years or less shall be suspended or imposed as probation.

127 b) The court may impose a sentence that does not include incarceration, or may direct  
128 that the execution of the sentence, or any part thereof, be suspended and that the defendant be  
129 placed on probation for such time and on such terms and conditions as it shall fix, as set forth in  
130 Chapter 279 of the Massachusetts General Laws, Sections 1-2.



131 c) A child adjudicated as a youthful offender and prosecuted as an adult is subject to the  
132 sentences set forth in subsection A of this section. A child adjudicated as delinquent shall not be  
133 committed to the Department of Youth Services.

134 d) The court shall determine the defendant's eligibility for relief pursuant to this Act  
135 regardless of whether the defendant raised an affirmative defense at the time of their pre-trial,  
136 trial, or plea proceedings.

137 SECTION 4. Chapter 263 of the General Laws is hereby amended by inserting after  
138 Section 10B the following section:

139 Section 10C. Postconviction Relief Pursuant to the Massachusetts Survivors Justice Act

140 a) Any person who is (1) confined in an institution under the custody and control of the  
141 Department of Correction or the Department of Youth Services and (2) eligible for a reduced  
142 sentence pursuant to the provisions of this Act may file a petition for relief pursuant to this Act.

143 b) The administrative justices of the superior court, district court, juvenile court and the  
144 Boston municipal court departments shall jointly promulgate a motion form for use under this  
145 section that allows petitioners to provide:

146 i. A declaration by the petitioner that they are eligible for relief under this Act;

147 ii. The petitioner's case number and year of conviction or adjudication of delinquency;

148 and

149 iii. Whether the petitioner requests appointment of counsel.

150 c) The Department of Correction, Department of Youth Services, and courts with  
151 criminal or delinquency jurisdiction will make the petition form available to all incarcerated  
152 people free of cost. The petition form will be available for download on a publicly available  
153 court website and the Department of Correction website. The petition form will be available by  
154 phone or in-person request to a designated clerk at each state trial and appellate court with  
155 criminal or delinquency jurisdiction.

156 d) Petitioners shall file their petitions in the county court where the petitioner was  
157 convicted or adjudicated as delinquent and sentenced. Petitions shall be randomly assigned by  
158 the administrative judge designated by the office of court administration with jurisdiction over  
159 the county where the application is filed to any trial court judge with criminal or delinquency  
160 jurisdiction other than the judge who first sentenced the applicant unless the judge who first  
161 sentenced the applicant is the only judge in that county.

162 e) If the court finds that the petitioner has alleged the factors listed in subsection B of this  
163 section, the court shall (1) notify the petitioner that they may submit a motion to be resentenced;  
164 (2) send the petition to the district attorney where the petitioner was convicted, and (3) appoint  
165 counsel, if petitioner requested appointment of counsel. If the court finds that the petitioner has  
166 not alleged the factors listed in subsection B of this section, the court shall notify the petitioner  
167 and deny their request without prejudice.

168 f) A motion for resentencing pursuant to this Act shall be filed and adjudicated subject to  
169 the procedures set forth in Sections 2 and 4 of this Act.

170 g) If the court determines that the petitioner should be resentenced, the court shall notify  
171 the applicant that, unless they withdraw their application for resentencing or appeal the order of

172 the court, the court shall enter an order vacating the sentence originally imposed and shall  
173 impose a new sentence as set forth in Section 4 of this Act.

174 h) This Section does not diminish or abrogate any rights or remedies otherwise available  
175 to the petitioner.

176 i) A person who is resentenced pursuant to this section shall be given credit for time  
177 served toward the sentence originally imposed. A person whose time served exceeds the period  
178 of incarceration required by their reduced sentence shall be released.

179 j) All granted motions will provide notification to all interested parties under M.G.L. Ch.  
180 258B.

181 SECTION 5. Section 100E of chapter 276 of the General Laws is hereby amended by  
182 adding the definition “sexual assault, or human trafficking” as follows “a survivor of (i) abuse as  
183 defined in section 1 of chapter 209A or section 1 of chapter 258e (ii) sexual assault, defined as  
184 causing another to engage involuntarily in sexual relations by force, threat or duress; and/or (iii)  
185 human trafficking as defined by section 20M of chapter 233 or a victim of trafficking in persons  
186 under 22 U.S.C. 7102.”survivors of abuse,

187 SECTION 6. Section 100K of chapter 276 of the General Laws, as so appearing, is  
188 hereby amended by striking the word “or” at the end of paragraph (a)(5).

189 SECTION 7. Section 100K of chapter 276 of the General Laws, as so appearing, is  
190 hereby amended by inserting after the sixth paragraph of subsection (a), the following  
191 paragraph:-

192 (7) an offense that was related to the petitioner being a victim of abuse, sexual assault, or  
193 human trafficking.

194 SECTION 8. Section 100K of chapter 276 of the General Laws, as so appearing, is  
195 hereby amended by inserting after the first sentence of subsection (b), the following sentences:-

196 In determining eligibility for relief, a judge shall consider any credible evidence of the  
197 defendant's status as a survivor of abuse, sexual assault, or human trafficking. Credible evidence  
198 shall include the testimony of the petitioner as well as documentary evidence including, but not  
199 limited to: a court record; a presentence report; a social services record; a hospital record; a  
200 sworn statement corroborating the abuse, sexual assault, or human trafficking from someone who  
201 is not the defendant; a law enforcement record; a domestic incident report; a protective order; a  
202 sworn statement by the defendant; local jail records or records of the Department of Correction;  
203 documentation—including written documents, photographs, text messages, emails, videos, and  
204 audio recordings—tending to support the claims of the defendant; verification of consultation  
205 with a licensed medical care provider or mental health care provider, employee of a court acting  
206 within the scope of his or her employment, member of the clergy, attorney, social worker, rape  
207 crisis counselor, or other advocate acting on behalf of an agency that assists survivors.

208 SECTION 9. Chapter 276 of the General Laws is hereby amended by striking out section  
209 100Q, as inserted by section 195 of said chapter 69, and inserting in place thereof the  
210 following section:-

211 Section 100Q. Unless otherwise provided by law, no person shall make records sealed  
212 pursuant to section 100A, 100B, or 100C or expunged pursuant to section 100F, 100G, section  
213 100H, or section 100K available for inspection in any form by any person.

214 SECTION 10. Section 100C of chapter 276 of the General Laws, as so appearing, is  
215 hereby amended by inserting after the second paragraph, the following paragraphs:-

216 Notwithstanding other provisions in section 100A—100C, a judge may without a waiting  
217 period seal any court appearance or disposition where the offense was related to the petitioner  
218 being a survivor of abuse, sexual assault, or human trafficking.

219 A judge shall consider any credible evidence including testimony of the petitioner in  
220 determining eligibility for relief under this section.

221 SECTION 11. Sections 100A, 100B, and 100C of chapter 276 of the General Laws, as so  
222 appearing, are hereby amended by inserting the following language at the end of each section:  
223 “The clerk’s office of any division of the trial court, the commissioner of probation, or any other  
224 criminal justice agency, upon request of a person whose offense or offenses are sealed, or the  
225 person’s legal representative, shall provide access to the information contained in the sealed  
226 records to the individual or the individual’s legal representative without first obtaining a court  
227 order.”

228 Chapter 279 of the General Laws is hereby amended by inserting after Section 6B, the  
229 following section:

230 “Section 6C: Special Sentence of Imprisonment for Survivors. A person who is eligible  
231 for a reduced or alternative sentence pursuant to the Massachusetts Survivors Act shall be  
232 sentenced in accordance with the procedure set forth in in M.G.L. Ch. 263 §§ 10-10A.”

233 SECTION 12. Chapter 279 of the General Laws is hereby amended by inserting after  
234 Section 6B, the following paragraphs

235           The right to file a motion and obtain relief under this Act shall not be waivable and is not  
236 barred by any plea agreement.

237           The right to file a motion and obtain relief under this Act shall not be waivable and is not  
238 barred by any plea agreement.

239           Notwithstanding any other provision of law concerning postconviction relief, a district  
240 attorney in the jurisdiction in which a person was convicted of an offense may file a motion in  
241 the district court to vacate or set aside a judgment of conviction at any time if clear and  
242 convincing evidence exists establishing that the defendant was convicted of an offense that the  
243 defendant did not commit. The district court shall have jurisdiction and authority to consider,  
244 hear, and decide the motion.

245           A conviction, adjudication as of delinquent or youthful offender, or continuance without  
246 a finding vacated under this section shall be deemed to have been vacated on the merits.

247           SECTION 13. Sections 57 and 59 of Chapter 265 of the Mass. General. Laws is repealed  
248 and replaced with the following language:

249           Survivor of abuse, sexual assault, or human trafficking as affirmative defense to criminal  
250 or delinquency charges.

251           In any prosecution or juvenile delinquency proceeding of a person who is a survivor of  
252 abuse, sexual assault, or human trafficking it shall be an affirmative defense to the charge that  
253 such person was under duress or coerced into committing the offenses for which such person is  
254 being prosecuted or against whom juvenile delinquency proceedings have commenced.